



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document(s) Reviewed (include title): **WAC 458-20-245 (Telephone business, telephone service)**

Date last reviewed: **May 7, 1999**

Reviewer: **Gilbert Brewer**

Date current review completed: **May 27, 2004**

Briefly explain the subject matter of the document(s): **Rule 245 addresses the B&O, retail sales, and use tax reporting responsibilities of persons engaged in a telephone business or rendering telephone services.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
X		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be repealed



		because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
X		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
X		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

- **Laws 2003, c. 168, § 501 -- Streamlined sales tax bill -- provides retail sales tax sourcing rules for telephone calls**
- **Laws 2002, c. 67 -- Mobile Telecommunications Sourcing Act -- provides sourcing rules for cellular telephone companies**
- **Laws 2004, c. 153 -- Streamlined corrections bill -- applies retail sales tax sourcing rules for B&O tax purposes**
- ***Western Telepage, Inc. v. City of Tacoma*, 140 Wash.2d 599, 998 P.2d 884 (2000) -- one-way telephonic paging business is a "telephone business" for tax purposes**
- **Det. No. 96-090, 17 WTD 304 -- cellular telephone service does not qualify for retail sales tax exemption as service provided to a "residential customer"**

3. Additional information: Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

The rule should be divided into separate rules for cellular carriers and land-line carriers. The policies applied to each are sufficiently different to justify separate rules.

4. Listing of documents reviewed: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented: **See new laws above.**



Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs):

Court Decisions:

***Western Telepage, Inc. v. City of Tacoma*, 140 Wn. 2d, 998 P.2d 884 (2000) --**

Board of Tax Appeals Decisions (BTAs):

Appeals Division Decisions (WTDs):

- **17 WTD 304**
- **17 WTD 379**
- **20 WTD 20**
- **20 WTD 372**
- **21 WTD 13**

Attorney General Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

5. Review Recommendation:

- | | |
|---------------------|---|
| <u> X </u> | Amend |
| _____ | Repeal/Cancel (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| _____ | Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.) |
| _____ | Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.) |

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).



The telecommunications world has changed; the rule needs to be changed to reflect new realities.

6. Manager action: Date: July 2, 2004

AL Reviewed and accepted recommendation

Amendment priority:

X 1
 2
 3
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